IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPLICATION NO.141 OF 2000

The Commissioner of Income-tax,
Bombay Central-III, Bombay .. Petitioner.
V/s.
M/s.Monarch Land Developers .. Respondent.

Mr.R.V. Desai, senior counsel with Mr.R. Asokan for the petitioner.

CORAM : S. RADHAKRISHNAN &
J.P. DEVADHAR, JJ.

DATED : 7TH MARCH, 2005.

P.C. :

1. Heard learned counsel for the petitioner. In the above, following substantial questions of law are sought to be raised.

1. Whether on the facts and in the circumstances of the case, and in law, the Tribunal was justified in coming to the conclusion that the estimate by the A.O. for on-money charged by the assessee was not correct ?

2. Whether on the facts and in the circumstances of the case, and in law, the Tribunal was justified in coming to the conclusion that the rate of net profit computed by the A.O. @15% on on-money was not correct, ignoring the fact that the rate of 15% adopted by the A.O. had valid basis whereas the assessee's claim on net profit @ 10% was only a request, not having any basis?

3. Whether, on the facts and in the circumstances of the case and in law, the Tribunal was correct in holding that proceedings u/s.158BD are ab initio void in this case, when the Assessing Officer had drawn satisfaction from the documents actually seized during a search in another case, notwithstanding that the Tribunal subsequently held that those documents were

inadequate for initiation of proceedings in this case ?

2. For the reasons recorded in our order which we passed today while disposing of Income Tax Application No.140 of 2000, there is no substantial question of law in this application. The findings given by the Tribunal are findings of fact. Hence, the application stands dismissed.

(S. RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)